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## But When You're Not a Spy . . .

I hope that in the current debate over writers and publications that "reveal" the identities of CIA agents we will not lose sight of the innocent victims. It seems to have become an article of faith that publications specializing in unmasking American intelligence officials working undercover always get their man. In the discussion to date, I have nowhere seen the suggestion that concern should be shown for those individuals *incorrectly* accused of working for the intelligence community. It is a serious oversight.

As things stand, publications that accuse Americans of being espionage agents can do so with relative impunity, even when there is only scanty evidence—if that—to support the charge. My own case may serve as an example.

Nearly two years ago, the "Covert Action Information Bulletin" described me as a "crypto-journalist who orchestrated CIA manipulations of the media in Chile and in Italy." The charge is false, and I was alarmed by the possible consequences of its publication.

First, of course, there is the damage to one's reputation and career; these charges frequently come back to haunt one if they are not dealt with firmly and convincingly.

Second, there is the risk to life and limb; I spend a good deal of time working on and in Italy, and there are some Italians who feel inclined to take violent action against presumed foreign agents. After unsuccessfully attempting to convince the authors of this charge that they had made a mistake, I talked to a lawyer.

The lawyer told me that one could sue for libel, and undoubtedly win. But it was unlikely that any damages would ever be collected and, in the meantime, I would have to put up a considerable sum to cover expenses (we would likely have to travel to Rome and Santiago for depositions, pay stenographers, Xerox documents, etc.). Even if he took the case *pro bono*, I would have to be prepared to spend \$15,000 to \$20,000. I couldn't raise the money and, after three unanswered letters to the ACLU asking for assistance, I gave up.

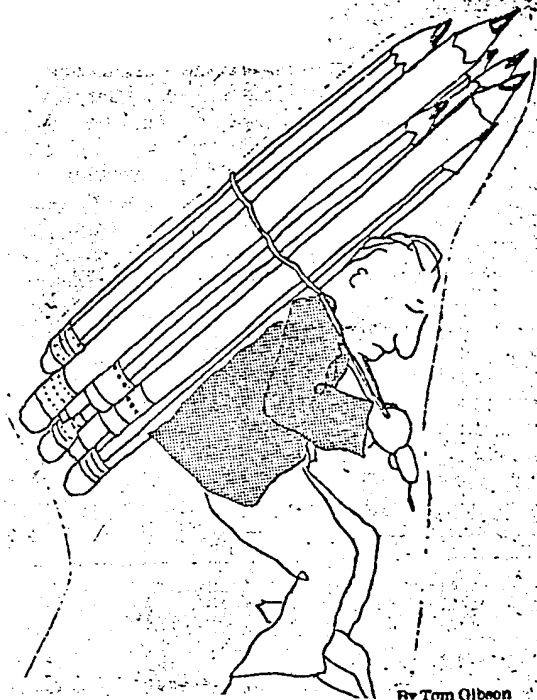
Since then, I've discussed the question with many people, and I have run

across a fair number of government employees who have also been incorrectly branded as "spies." When they tried to sue, they found themselves in a predicament even more frustrating than mine: they were asked by their superiors in the State Department and the Pentagon to remain silent. If the innocent sued, it was pointed out, the "unmaskers" could draw the conclusion that the non-suers were actually intelligence agents. Enemy agents could do the same.

So what are the innocent to do? Like most journalists and editors, I would deplore legislation that made it a crime to write accurately about any and all intelligence activities. There are certainly occasions on which the public should be informed of the actions of the intelligence community. But it is intolerable that sensation-seeking writers and publications can make irresponsible accusations with little fear of paying a penalty.

The most reasonable remedy for the current situation is to penalize the sort of dangerous nonsense that sometimes passes for expose. This means that the courts must be empowered to take action against those authors and publications that fail to observe proper standards. If investigative journalists and editors feel strongly about a story that labels an American an intelligence agent, let them be sufficiently scrupulous in their research—and their checking—to withstand a challenge. The charge is serious enough to warrant substantial penalties for irresponsible use, and these penalties should include a requirement that the offending party pay the court costs of the damaged person. In this way, even poor persons falsely accused of espionage can take legal action against their accusers.

I don't pretend to know what should constitute an effective penalty, but I hope that those members of Congress discussing this matter will devise an appropriate one. If carefully designed, such legislation would greatly restrain the zeal of many of the self-proclaimed "whistle blowers" and make it less likely that private citizens and civil servants will be exposed to considerable danger merely because there is no way to enforce reasonable standards on writers and editors.



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